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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/561,242	12/19/2005	Serge Champscix	0501-1151	6224
466	7590	08/07/2007	EXAMINER	
YOUNG & THOMPSON 745 SOUTH 23RD STREET 2ND FLOOR ARLINGTON, VA 22202			ROGERS, DAVID A	
			ART UNIT	PAPER NUMBER
			2856	
			MAIL DATE	DELIVERY MODE
			08/07/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Office Action Summary	Application No.	Applicant(s)	
	10/561,242	CHAMPSEIX ET AL.	
	Examiner	Art Unit	
	David A. Rogers	2856	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 July 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 21-27,29 and 31-44 is/are allowed.
- 6) ☒ Claim(s) 28 and 30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 December 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Continued Examination Under 37 C.F.R. 1.114

1. A request for continued examination under 37 C.F.R. 1.114, including the fee set forth in 37 C.F.R. 1.17(e), was filed in this application after allowance or after an Office action under *Ex Parte Quayle*, 25 USPQ 74, 453 O.G. 213 (Comm'r Pat. 1935). Since this application is eligible for continued examination under 37 C.F.R. 1.114, and the fee set forth in 37 C.F.R. 1.17(e) has been timely paid, prosecution in this application has been reopened pursuant to 37 C.F.R. 1.114. Applicant's submission filed on 23 July 2007 has been entered. Claims 1-20 are cancelled. Claims 21-44 are now pending.

Claim Objections

2. Claim 21 is objected to because of the following informality. Claim 1 recites the word --included-- on line 2. This should be amended to --including-- in order to provide the proper tense. Appropriate correction is required.

3. Claims 24 and 25 are objected to because of the following informality. Claim 24 requires removing the sample in a manner such that the sampling needle is pointing upwards. However, claim 23, from which claim 24 depends, requires removing the sample in a manner such that the sampling needle is pointing downwards. The sampling needle cannot be both pointing upwards and downwards. Appropriate correction is required.

Specification

4. The amendment filed on 23 July 2007 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows:

On page 2 of the amended the applicant adds the phrase --[t]hus, the force needled (*sic: needed*) for the rocking movement is reduced and the second motor may be of reduced power and size--. This is not an inherent feature of the configuration shown in, for example, figure 1. The farther away the rack is the bigger the rocker arm must be - thus adding weight to the arm. Added weight will require a larger motor, not a smaller motor. Therefore, it is not inherent that a smaller motor; e.g., a motor of reduced power and size, can be used.

On page 3 of the amended the applicant adds the phrase --[i]t may be possible that a position, P3 or beyond P3 relative with P2, i.e. toward rear, is provided to allow the vessels to be removed for changing or cleaning--. The provision of any location, be it P1, P2, P3, or even beyond P3 relative with P2, to allow for the vessels to be removed is not supported in the originally filed written description. In fact, the application is completely silent as to any removing of the vessels.

On page 3 of the amended the applicant adds the phrase --[t]hese means for balancing can be disposed to allow the rocker to make a complete rotation about its axis--. First, the originally filed written description never makes mention of any balancing means. So, it is unclear what "these means for balancing" are referring to. Furthermore, the originally filed written description never makes mention of a device capable of making a complete rotation.

The applicant is required to cancel the new matter in the reply to this Office Action.

Claim Rejections - 35 U.S.C. § 112

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claims 28 and 30 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification, as originally filed, in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

With regard to claim 28 the originally filed written description never made mention of providing a needle position in rotation about the axis (X2) so that a vessel can be removed from the axis.

With regard to claim 30 the originally filed written description never made mention of providing a needle that can be moved all around the axis.

Allowable Subject Matter

7. Claims 21-27, 29, and 31-44 are allowed subject to correcting the noted objections and rejections discussed above.

8. The following is an examiner's statement of reasons for allowance:

The independent claims comprise an apparatus and method for sampling where a needle can be driven by a carriage and rotated about an axis. One of the pulleys for driving a belt for driving the carriage also functions as the pivot for the rotation. The prior art teaches pivoting the needle or other sampling element (see United States Patents 3,858,450, 4,499,053, 4,869,114) and driving the needle (see United States Patents 3,748,911, 4,000,973, 5,756,905). Other references teach rotating and driving the needle (see United States Patent 3,949,615, 4,343,766, 4,927,603, 5,744,729). However, none of these references teach or suggest using a pulley for both driving a carriage and as a pivot for rotating the needle.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David A. Rogers whose telephone number is (571) 272-2205. The examiner can normally be reached on Monday - Friday (0730 - 1600). If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron E. Williams can be reached on (571) 272-2208. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

10. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/David Rogers/
Examiner - Group Art Unit 2856